

Exhibit C

Fred Heidarpour - March 3, 2021

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ABANTE ROOTER AND PLUMBING,)
INC., a California)
corporation, individually)
and on behalf of all others)
similarly situated,) No. 3:19-CV-05711
Plaintiff,)
vs.)
TOTAL MERCHANT SERVICES,)
LLC, a Delaware limited)
liability company,)
Defendant.)

REMOTE VIDEOTAPED DEPOSITION
OF
FRED HEIDARPOUR
Wednesday, March 3rd, 2021
Orinda, California

Reported by: Janie E. Wilkins, CSR No. 12497

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WITNESS INSTRUCTED NOT TO ANSWER:

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1 Q. And you had used the date 2017. Is there a 09:27:51
2 reason why you used a time frame of 2015 to 2017 when 09:27:54
3 discussing Andrew? 09:27:58

4 A. I started to get a call, tons of calls, and 09:27:59
5 that's what I'm saying is -- that's what I believe it 09:28:03
6 was in 2017 that we thought that we resolved the 09:28:05
7 issue by not calling us. And we got a -- I believe 09:28:10
8 we got an e-mail from counsel, from TMS that it -- it 09:28:13
9 looked like it's a promissory; that they're not going 09:28:17
10 to call you again, and we instructed them. All of us 09:28:21
11 thought that's what is said; that we thought that we 09:28:25
12 put it to bed, that's the end of it, but, 09:28:28
13 unfortunately, it didn't happen. 09:28:31

14 Q. So just using that as a point of reference, 09:28:33
15 that time period in approximately 2017 when -- to use 09:28:36
16 your term -- you put the issue to bed, from that time 09:28:41
17 forward, have you communicated with Andrew concerning 09:28:45
18 TMS? 09:28:47

19 A. I don't recall. 09:28:48

20 Q. Okay. As it relates to -- well, let me ask 09:28:51
21 you this: Has Andrew represented Abante in any of 09:28:56
22 its legal proceedings? 09:29:00

23 A. I don't think so. 09:29:02

24 Q. So as you sit here today, you don't 09:29:05
25 recall -- Abante does not recall retaining your son, 09:29:08

1 Q. Fast-forward two years to March 22nd, 2019, 10:39:08
2 you state you receive a call that you believe was 10:39:13
3 directly placed by TMS; correct? 10:39:16

4 A. Actually, the original was in 2018; was 10:39:21
5 not 2019. 10:39:24

6 Q. Okay. But your testimony when I had asked 10:39:25
7 you originally if you believe TMS directly called 10:39:29
8 you, you stated "yes." I asked you what's the basis 10:39:32
9 for that belief. You provided two bases. A 10:39:35
10 prerecorded call as well as an e-mail. And then I 10:39:38
11 stated, "When did the prerecorded call occur?" And 10:39:42
12 you told me, "After looking at your complaint that 10:39:45
13 you believe it was March 22nd, 2019"; correct? 10:39:47

14 A. That is correct. 10:39:51

15 Q. And that's where we are. And that's why 10:39:52
16 we're focused on March 22nd, 2019. 10:39:54

17 Now you've just stated something occurred 10:39:57
18 back in 2018. Was that a prerecorded call that 10:39:59
19 occurred in 2018? 10:40:02

20 A. No, sir. That was the ATDS call that 10:40:04
21 happened on 2018. 10:40:08

22 Q. We'll get to that one soon. But staying 10:40:09
23 focused on the task at hand -- we're focused on the 10:40:11
24 prerecorded telephone call that you just stated. And 10:40:14
25 you stated that occurred on March 22nd, 2019. Then 10:40:16

1 A. Again, when I -- when I'm not available, she 13:55:55
2 writes it probably on my notes. I don't know. 13:55:59

3 Q. And I appreciate that when you're not 13:56:02
4 available that she steps in, but my question to you 13:56:04
5 is do you recall discussing notes or the telephone 13:56:08
6 call that preceded the sending of this e-mail with 13:56:11
7 your wife? 13:56:13

8 A. It must be. I don't know. That's -- we 13:56:14
9 are 24/7 together. How can I remember the 13:56:17
10 conversation that we had three years ago? 13:56:21

11 Q. I don't know if you do or don't. That's why 13:56:23
12 I'm asking you the question. 13:56:25

13 A. I don't know. 13:56:27

14 Q. Okay. So you don't know if you communicated 13:56:27
15 with her. Did you ever review the complaint prior to 13:56:29
16 it being filed? 13:56:32

17 A. Yes. 13:56:34

18 Q. And did you review the interrogatories prior 13:56:35
19 to signing the verification pages we discussed 13:56:38
20 earlier? 13:56:41

21 A. Yes. 13:56:42

22 Q. So at any point in time in reviewing the 13:56:43
23 complaint or the interrogatory responses as it 13:56:45
24 relates to the alleged call that occurred 13:56:48
25 on June 24th, 2019, did you communicate with your 13:56:51

1 of stopping the telemarketers, in this case you would 14:35:09
2 agree that you did not sue Triumph Merchant 14:35:14
3 Solutions, LLC; correct? 14:35:20
4 A. Whatever the complaints -- if the complaints 14:35:20
5 is not, it's not. 14:35:23
6 Q. We can pull up the complaint if we want 14:35:24
7 because that's Exhibit 2. But I would assume you 14:35:27
8 know who you sued. Do you know who you sued in this 14:35:29
9 litigation? 14:35:32
10 A. Yes. Total Merchant Services. 14:35:33
11 Q. So you would agree that you did not sue 14:35:35
12 Triumph Merchant Solutions, LLC; correct? 14:35:37
13 A. Because every -- every information that we 14:35:40
14 got from Triumph was under the Total Merchant 14:35:42
15 Services. 14:35:47
16 Q. I understand that. You've testified to that 14:35:47
17 earlier. But my question to you is just having you 14:35:49
18 confirm, what I think is obvious, which is you did 14:35:51
19 not sue Triumph Merchant Solutions, LLC; correct? 14:35:53
20 A. Right. 14:35:57
21 Q. The actual entity who placed the telephone 14:35:57
22 call; correct? 14:36:00
23 A. On behalf of TMS, yes. 14:36:01
24 Q. And neither did you sue Christopher Judy; 14:36:03
25 correct? 14:36:06

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1	A. Right.	14:36:08
2	Q. So the actual telemarketers who placed the	14:36:08
3	call, for whatever reason, you elected not to sue;	14:36:12
4	correct?	14:36:15
5	A. They were working on behalf of TMS.	14:36:15
6	Q. Well, that's what you're alleging, but --	14:36:18
7	my --	14:36:21
8	A. That's what the document shows.	14:36:21
9	Q. My question to you, though, is just having	14:36:23
10	you confirm that you chose, for whatever reason, not	14:36:27
11	to sue the actual entities that placed the telephone	14:36:31
12	call; correct?	14:36:35
13	A. Right. Correct. Because they were working	14:36:36
14	on behalf of TMS.	14:36:38
15	Q. So when it comes to stopping the	14:36:41
16	telemarketers, you're not actually taking action	14:36:42
17	against the people calling you; right?	14:36:46
18	A. No, Lawren, that's -- that's not a true	14:36:51
19	statement. The people that are calling are working	14:36:53
20	on behalf of Total Merchant Services.	14:36:56
21	Q. So by suing Total Merchant Services, do you	14:36:59
22	think that is a detriment to Triumph from placing	14:37:03
23	telephone calls in the future?	14:37:07
24	A. Definitely because according to Todd	14:37:09
25	Anderson, he said that he's going to tell the Total	14:37:13

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